



Rep. Barbara Flynn Currie

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1 AMENDMENT TO HOUSE BILL 1365

2 AMENDMENT NO. _____. Amend House Bill 1365, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Department of Central Management Services
6 Law of the Civil Administrative Code of Illinois is amended by
7 changing Section 405-105 as follows:

8 (20 ILCS 405/405-105) (was 20 ILCS 405/64.1)

9 Sec. 405-105. Fidelity, surety, property, and casualty
10 insurance. The Department shall establish and implement a
11 program to coordinate the handling of all fidelity, surety,
12 property, and casualty insurance exposures of the State and the
13 departments, divisions, agencies, branches, and universities
14 of the State. In performing this responsibility, the Department
15 shall have the power and duty to do the following:

16 (1) Develop and maintain loss and exposure data on all

1 State property.

2 (2) Study the feasibility of establishing a
3 self-insurance plan for State property and prepare
4 estimates of the costs of reinsurance for risks beyond the
5 realistic limits of the self-insurance.

6 (3) Prepare a plan for centralizing the purchase of
7 property and casualty insurance on State property under a
8 master policy or policies and purchase the insurance
9 contracted for as provided in the Illinois Purchasing Act.

10 (4) Evaluate existing provisions for fidelity bonds
11 required of State employees and recommend changes that are
12 appropriate commensurate with risk experience and the
13 determinations respecting self-insurance or reinsurance so
14 as to permit reduction of costs without loss of coverage.

15 (5) Investigate procedures for inclusion of school
16 districts, public community college districts, and other
17 units of local government in programs for the centralized
18 purchase of insurance.

19 (6) Implement recommendations of the State Property
20 Insurance Study Commission that the Department finds
21 necessary or desirable in the performance of its powers and
22 duties under this Section to achieve efficient and
23 comprehensive risk management.

24 (7) Prepare, ~~and, in the discretion of the Director,~~
25 implement, and, by April 1, 2011, reduce to writing and
26 make available on its website a plan providing for the

1 purchase of public liability insurance or for
2 self-insurance for public liability or for a combination of
3 purchased insurance and self-insurance for public
4 liability (i) covering the State and drivers of motor
5 vehicles owned, leased, or controlled by the State of
6 Illinois pursuant to the provisions and limitations
7 contained in the Illinois Vehicle Code, (ii) covering other
8 public liability exposures of the State and its employees
9 within the scope of their employment, and (iii) covering
10 drivers of motor vehicles not owned, leased, or controlled
11 by the State but used by a State employee on State
12 business, in excess of liability covered by an insurance
13 policy obtained by the owner of the motor vehicle or in
14 excess of the dollar amounts that the Department shall
15 determine to be reasonable. Any contract of insurance let
16 under this Law shall be by bid in accordance with the
17 procedure set forth in the Illinois Purchasing Act. Any
18 provisions for self-insurance shall conform to subdivision
19 (11).

20 The term "employee" as used in this subdivision (7) and
21 in subdivision (11) means a person while in the employ of
22 the State who is a member of the staff or personnel of a
23 State agency, bureau, board, commission, committee,
24 department, university, or college or who is a State
25 officer, elected official, commissioner, member of or ex
26 officio member of a State agency, bureau, board,

1 commission, committee, department, university, or college,
2 or a member of the National Guard while on active duty
3 pursuant to orders of the Governor of the State of
4 Illinois, or any other person while using a licensed motor
5 vehicle owned, leased, or controlled by the State of
6 Illinois with the authorization of the State of Illinois,
7 provided the actual use of the motor vehicle is within the
8 scope of that authorization and within the course of State
9 service.

10 Subsequent to payment of a claim on behalf of an
11 employee pursuant to this Section and after reasonable
12 advance written notice to the employee, the Director may
13 exclude the employee from future coverage or limit the
14 coverage under the plan if (i) the Director determines that
15 the claim resulted from an incident in which the employee
16 was grossly negligent or had engaged in willful and wanton
17 misconduct or (ii) the Director determines that the
18 employee is no longer an acceptable risk based on a review
19 of prior accidents in which the employee was at fault and
20 for which payments were made pursuant to this Section.

21 The Director is authorized to promulgate
22 administrative rules that may be necessary to establish and
23 administer the plan.

24 Appropriations from the Road Fund shall be used to pay
25 auto liability claims and related expenses involving
26 employees of the Department of Transportation, the

1 Illinois State Police, and the Secretary of State.

2 (8) Charge, collect, and receive from all other
3 agencies of the State government fees or monies equivalent
4 to the cost of purchasing the insurance.

5 (9) Establish, through the Director, charges for risk
6 management services rendered to State agencies by the
7 Department. The State agencies so charged shall reimburse
8 the Department by vouchers drawn against their respective
9 appropriations. The reimbursement shall be determined by
10 the Director as amounts sufficient to reimburse the
11 Department for expenditures incurred in rendering the
12 service.

13 The Department shall charge the employing State agency
14 or university for workers' compensation payments for
15 temporary total disability paid to any employee after the
16 employee has received temporary total disability payments
17 for 120 days if the employee's treating physician has
18 issued a release to return to work with restrictions and
19 the employee is able to perform modified duty work but the
20 employing State agency or university does not return the
21 employee to work at modified duty. Modified duty shall be
22 duties assigned that may or may not be delineated as part
23 of the duties regularly performed by the employee. Modified
24 duties shall be assigned within the prescribed
25 restrictions established by the treating physician and the
26 physician who performed the independent medical

1 examination. The amount of all reimbursements shall be
2 deposited into the Workers' Compensation Revolving Fund
3 which is hereby created as a revolving fund in the State
4 treasury. In addition to any other purpose authorized by
5 law, moneys in the Fund shall be used, subject to
6 appropriation, to pay these or other temporary total
7 disability claims of employees of State agencies and
8 universities.

9 Beginning with fiscal year 1996, all amounts recovered
10 by the Department through subrogation in workers'
11 compensation and workers' occupational disease cases shall
12 be deposited into the Workers' Compensation Revolving Fund
13 created under this subdivision (9).

14 (10) Establish rules, procedures, and forms to be used
15 by State agencies in the administration and payment of
16 workers' compensation claims. The Department shall
17 initially evaluate and determine the compensability of any
18 injury that is the subject of a workers' compensation claim
19 and provide for the administration and payment of such a
20 claim for all State agencies. The Director may delegate to
21 any agency with the agreement of the agency head the
22 responsibility for evaluation, administration, and payment
23 of that agency's claims.

24 (11) Any plan for public liability self-insurance
25 implemented under this Section shall provide that (i) the
26 Department shall attempt to settle and may settle any

1 public liability claim filed against the State of Illinois
2 or any public liability claim filed against a State
3 employee on the basis of an occurrence in the course of the
4 employee's State employment; (ii) any settlement of such a
5 claim is not subject to fiscal year limitations and must be
6 approved by the Director and, in cases of settlements
7 exceeding \$100,000, by the Governor; and (iii) a settlement
8 of any public liability claim against the State or a State
9 employee shall require an unqualified release of any right
10 of action against the State and the employee for acts
11 within the scope of the employee's employment giving rise
12 to the claim.

13 Whenever and to the extent that a State employee
14 operates a motor vehicle or engages in other activity
15 covered by self-insurance under this Section, the State of
16 Illinois shall defend, indemnify, and hold harmless the
17 employee against any claim in tort filed against the
18 employee for acts or omissions within the scope of the
19 employee's employment in any proper judicial forum and not
20 settled pursuant to this subdivision (11), provided that
21 this obligation of the State of Illinois shall not exceed a
22 maximum liability of \$2,000,000 for any single occurrence
23 in connection with the operation of a motor vehicle or
24 \$100,000 per person per occurrence for any other single
25 occurrence, or \$500,000 for any single occurrence in
26 connection with the provision of medical care by a licensed

1 physician employee.

2 Any claims against the State of Illinois under a
3 self-insurance plan that are not settled pursuant to this
4 subdivision (11) shall be heard and determined by the Court
5 of Claims and may not be filed or adjudicated in any other
6 forum. The Attorney General of the State of Illinois or the
7 Attorney General's designee shall be the attorney with
8 respect to all public liability self-insurance claims that
9 are not settled pursuant to this subdivision (11) and
10 therefore result in litigation. The payment of any award of
11 the Court of Claims entered against the State relating to
12 any public liability self-insurance claim shall act as a
13 release against any State employee involved in the
14 occurrence.

15 (12) Administer a plan the purpose of which is to make
16 payments on final settlements or final judgments in
17 accordance with the State Employee Indemnification Act.
18 The plan shall be funded through appropriations from the
19 General Revenue Fund specifically designated for that
20 purpose, except that indemnification expenses for
21 employees of the Department of Transportation, the
22 Illinois State Police, and the Secretary of State shall be
23 paid from the Road Fund. The term "employee" as used in
24 this subdivision (12) has the same meaning as under
25 subsection (b) of Section 1 of the State Employee
26 Indemnification Act. Subject to sufficient appropriation,

1 the Director shall approve payment of any claim, without
2 regard to fiscal year limitations, presented to the
3 Director that is supported by a final settlement or final
4 judgment when the Attorney General and the chief officer of
5 the public body against whose employee the claim or cause
6 of action is asserted certify to the Director that the
7 claim is in accordance with the State Employee
8 Indemnification Act and that they approve of the payment.
9 In no event shall an amount in excess of \$150,000 be paid
10 from this plan to or for the benefit of any claimant.

11 (13) Administer a plan the purpose of which is to make
12 payments on final settlements or final judgments for
13 employee wage claims in situations where there was an
14 appropriation relevant to the wage claim, the fiscal year
15 and lapse period have expired, and sufficient funds were
16 available to pay the claim. The plan shall be funded
17 through appropriations from the General Revenue Fund
18 specifically designated for that purpose.

19 Subject to sufficient appropriation, the Director is
20 authorized to pay any wage claim presented to the Director
21 that is supported by a final settlement or final judgment
22 when the chief officer of the State agency employing the
23 claimant certifies to the Director that the claim is a
24 valid wage claim and that the fiscal year and lapse period
25 have expired. Payment for claims that are properly
26 submitted and certified as valid by the Director shall

1 include interest accrued at the rate of 7% per annum from
2 the forty-fifth day after the claims are received by the
3 Department or 45 days from the date on which the amount of
4 payment is agreed upon, whichever is later, until the date
5 the claims are submitted to the Comptroller for payment.
6 When the Attorney General has filed an appearance in any
7 proceeding concerning a wage claim settlement or judgment,
8 the Attorney General shall certify to the Director that the
9 wage claim is valid before any payment is made. In no event
10 shall an amount in excess of \$150,000 be paid from this
11 plan to or for the benefit of any claimant.

12 Nothing in Public Act 84-961 shall be construed to
13 affect in any manner the jurisdiction of the Court of
14 Claims concerning wage claims made against the State of
15 Illinois.

16 (14) Prepare and, in the discretion of the Director,
17 implement a program for self-insurance for official
18 fidelity and surety bonds for officers and employees as
19 authorized by the Official Bond Act.

20 (15) By April 1, 2011, recommend a plan to be
21 administered by the General Assembly providing for the
22 purchase of insurance or for self-insurance or for a
23 combination of purchased insurance and self-insurance
24 covering all foreseeable public liability and property
25 exposures (including fire and casualty) of the General
26 Assembly, its legislative district offices, and its

1 members and employees acting within the scope of their
2 service or employment. The plan shall be reduced to writing
3 and filed with the Clerk of the House and the Secretary of
4 the Senate. At a minimum, the plan shall include:

5 (A) specific reasons as to why the plan is the most
6 economical and practical for the General Assembly;

7 (B) if the Department recommends that insurance be
8 purchased, a listing of responsible private entities
9 from which the General Assembly may procure such
10 services;

11 (C) if the Department recommends that a system of
12 self-insurance be established, specific procedures for
13 the handling and settlement of claims;

14 (D) if the Department recommends that a system of
15 self-insurance be established, an opinion as to
16 whether additional appropriations in Fiscal Year 2011
17 or any fiscal year thereafter are necessary to
18 implement the system; and

19 (E) specific procedures for the leasing of
20 legislative district office space, including, without
21 limitation, insurance obligations to be imposed upon
22 lessors and standard language to be incorporated into
23 lease agreements memorializing such obligations.

24 For purposes of this subdivision (15), "employee" means any
25 person employed full-time, part-time, or pursuant to a
26 contract.

1 (Source: P.A. 96-928, eff. 6-15-10.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".